

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7838**

**BILL NUMBER:** SB 499

**NOTE PREPARED:** Feb 7, 2005

**BILL AMENDED:** Feb 7, 2005

**SUBJECT:** Voting Equipment Integrity and Upgrades.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

**(A)** The bill makes changes regarding the certification process for voting systems and establishes a uniform date for the expiration of voting system certifications.

**(B)** The bill establishes a voting systems technical oversight program.

**(C)** The bill requires county election boards to perform public tests of electronic voting systems before election day.

**(D)** The bill requires precinct election boards to document certain information concerning optical scan tabulation systems before the polls open.

**(E)** The bill establishes civil penalties for violations of statutes concerning the use of voting systems in Indiana elections.

**(F)** The bill requires a county that uses a punch card voting system to enter into a contract, not later than July 1, 2005, for a voting system certified for use in Indiana elections for delivery not later than January 1, 2006, and allows the Secretary of State to purchase a voting system for the county if the county does not act.

**(G)** The bill permits a voting system previously certified for use in Indiana to continue to be used after the certification expires if the voting system complies with the requirements of HAVA.

**(H)** The bill repeals obsolete references to lever voting machines, punch card voting systems, and paper ballots formerly printed by the Election Division.

**Effective Date:** Upon passage; July 1, 2005.

**Explanation of State Expenditures:** **(A)** Under the current law, the Election Commission has the option to require a voting system to be tested by an independent authority before approval of the system is granted for use in an Indiana election. Payment for testing is charged to the vendor of the voting system. The bill would require the Election Commission to conduct testing of any voting system by an independent laboratory accredited under the federal Help America Vote Act (HAVA). The vendor would bear all costs associated with the testing. This provision should have minimal impact to Commission's expenditures.

**(B)** Under the bill, the Secretary of State would be required to contract with a person or an entity to conduct the Voting System Technical Evaluation Program (the Program.) The person/entity selected would be charged to:

- (1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems used to conduct elections in Indiana.
- (2) Compile and maintain an inventory of all voting systems used to conduct elections in Indiana.
- (3) Review reports concerning voting systems prepared by independent laboratories and submitted by applicants for voting system certification.
- (4) Recommend to the Commission whether an application for voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.
- (5) Perform any additional testing of a voting system necessary to determine whether the voting system complies with state law.
- (6) Each year perform random audits of voting systems used to conduct Indiana elections and prepare reports indicating whether the voting systems have been certified, programmed, and used in compliance with Indiana law.
- (7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.
- (8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase agreements and other contracts for the lease or purchase of voting systems.
- (9) Perform any other duties related to the approval or use of voting systems as provided in: state law or the contract with the Secretary of State.

The impact to state expenditure is unknown and would depend on the contract agreement reached between the Secretary of State and the person/entity selected to conduct the Program. However, revenue collected from civil penalties, as proposed under the bill, would be used partly to administer and enforce the Program. See:

*Explanation of State Revenues.*

**(F)** Under this provision, the Secretary of State would be required to purchase, via QPA, voting systems for punch card machine counties that do not enter into a contract to purchase a new voting system before July 1, 2005. The bill does not provide an appropriation for the purchase of voting systems. The impact to state expenditure would depend on the number of counties that do not reach a contract agreement with a vendor before July 1, 2005.

It may be possible, that federal funding under HAVA (*see below*) could be used to cover the cost of the new systems for counties that have not replaced their punch card machines.

*Voting System Cost:* Two vendors of direct recording electronic (DRE) were contacted and provided estimates for their latest touchscreen systems. The average price per precinct to purchase the Microvote Infinity would be about \$7,000 to \$8,000, including printer capability and a voice-converter unit. Diebold Systems indicated that their Accutouch would also range from \$7,000 to \$8,000. The estimates are based on two DRE systems and their accessories per precinct. Optical scan systems cost approximately \$5,000 per unit. In addition, the optical-scan system requires ongoing ballot cost. For the 2004 general election, optical scan ballots were about \$0.29 per ballot or \$290 per 1000 ballots.

*Federal Funding Under HAVA:* Under federal law, the 17 remaining punch card counties in Indiana have HAVA Section 102 funding available in an account administered by the Indiana Election Division. Based on the number of precincts in each of these counties, each county is entitled to approximately \$8,000 *per precinct* for the replacement of their punch card machines for an approved voting system. In addition, each of these counties would be able to receive up to \$50,000 for software and other voting accessibility requirements. It is likely, these revenue sources would be able to cover most if not all of the expense to purchase new voting systems in the remaining punch card counties.

**(H)** This provision would reduce expenditures by the Indiana Election Division by a minimal amount.

*Background:* The Election Division expended between \$12,000 to \$15,000 on paper ballots for the 2004 general election.

**Explanation of State Revenues:** **(E)** Under the bill, a voting system vendor would be subject to a civil penalty that purposefully sold, leased, installed, implemented, or permitted a voting system in an Indiana election that violated any provision of Indiana election law. The Secretary of State would determine if and for how much a penalty would be assessed. Civil penalties, under this provision, would not be able to exceed \$500,000 plus any investigative cost incurred and documented by the Secretary of State.

Revenue from penalties assessed would be deposited in the Voting System Technical Oversight Program Account, as created under the bill, of the state General Fund. The Account would be administered by the Election Division. Revenue in the Account would be used to administer and enforce mandatory testing of election systems before their approval for use in an Indiana election.

**Explanation of Local Expenditures:** **(C)** The provision would increase the administrative responsibilities of county election boards. However, unless major problems are discovered with a county's voting systems, county election boards should be able to carry out this provision within existing resources.

**(D)** Precinct election officers would see an increase in administrative responsibility under this provision. The officers would be required to assure and certify that an optical scan system:

- (1) is in perfect working order, and
- (2) records that zero votes have been cast before voting begins.

The provision would likely be accomplished within existing resources of the precinct election board.

**Explanation of Local Revenues:**

**State Agencies Affected:** Secretary of State, Indiana Election Division, Indiana Election Commission.

**Local Agencies Affected:** County election boards, precinct election boards.

**Information Sources:** Brad King, Indiana Election Division Co-Director; Steve Shamo, Microvote; Steve Cory, Diebold Systems.

**Fiscal Analyst:** Chris Baker, 317-232-9851.